

O/Sugar and Gas/51

1951

File No. 23/51



Legal Department

G.

BRANCH

Subject:—

Opinions on the

Sugar and Gas Control

1750

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The Sugar and Gur Control Order, 1950 was issued by the Central Government on 7th October 1950 and came into force at once throughout the whole of India except the State of Jammu and Kashmir. Under clause 12(1) (b) of that order, any order made by a State Government or other authority regulating or prohibiting the production, supply and distribution of sugar and trade and commerce therein which is inconsistent with the provisions of this Order, stands repealed. Further, clause 12(2) of the Sugar and Gur Control Order, 1950 provides that an Order made by any authority, which is in force immediately before the commencement of this Order and which is ~~in force immediately before the commencement of this Order and which is consist-~~ent with this Order, shall continue in force and all appointments made prices fixed, licences and permits granted, and directions issued under any such order and in force immediately before such commencement shall like wise continue in force and be deemed to be made, fixed, granted, or issued in pursuance of this Order. The question that arises is whether the two orders referred to by the Civil Supplies Department viz. No. 287/III (b) dated the 17th October 1949 regulating inter alia export and import of sugar from and into Ahmedabad district. and No. 316-III, dated the 4th November 1949 entitled the Bombay Sugar (Regulation of Disposal and Acquisition) Order, 1949, were consistent with the provisions of the Sugar and Gur Control Order, 1950. Clause 5 of the Sugar and Gur Control Order contains provisions for regulating transport, but it is doubtful whether import from Ajmerx that is a place outside the State into Ahmedabad District would be considered merely as ban on

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transport. However, it is not very material for the disposal of this case to consider this question as the action of the District Magistrate does not fall under it. At the most the party could have been prosecuted thereunder but the question of prosecution has been dropped in this case.

The other order viz. the Bombay Sugar (Regulation of Disposal and Acquisition) Order, 1949 can be said to have been continued in force as it is consistent with clause 7(2) of the Sugar and Gur Control Order, 1950. The Order of the District Magistrate No. P.C./Sugar/M, dated 2nd January 1951 does not comply strictly with the requirements of clauses 3 and 4 of the Bombay Sugar (Regulation of Disposal and Acquisition) Order, 1949 but read with the specification of price in the District Magistrate's letter dated 9th January 1951 it can be argued that it was issued under these clauses. In view of the provisions of section 16 of the Essential Supplies (Temporary Powers) Act, the action of the District Magistrate would be protected as done in good faith.

The suit, if filed would, therefore, be defensible.

Sd/-

Additional Secretary to Government.

U.R. to C.S.D. No. G-390, dated the 27th August 1951.

KVY. 26/7.